



1945

File No. B. Land Acq / 45

Legal Department

B. BRANCH

Subject:—

A Bill to amend the Land Acquisition
Act, 1894 in its application to the
Province of Bombay

Amendment to—

(Born XX of 1945)

16
1945 (E)

File No. B. Land Acq / 45

194-B

Office of the R.L.A.

As desired by Secretary, R.D., a draft Bill to amend the Land Acquisition Act is prepared and sent herewith.

2. The subject matter of the Bill falls under entries 9 and 37 in List II of the 7th Schedule to the Government of India Act, 1935. It is not necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, and paragraph (2) of the Proclamation.

3. The draft statement subsequently sent by the R.D. as very slightly amended is in order. A revised draft is sent herewith.

4. Under executive instructions the Bill requires the previous concurrence of the Governor General before enactment.

5. It will be necessary for R.D. to follow the procedure laid down in Instruction 24 of the Instructions issued under rule 15 of the Rules of Business and Sec. (G)'s Circular No. 12/1, dated the 10th May 1937. P. and S.D. Circular No. 996 dated the 3rd September 1938 and Sec. (G)&'s Circular No. 201(41), dated the 30th September 1941, and submit the papers to H.E. through all the Advisers.

Sd/-P.H.Moon
-4-5-45

O.C. Remembrancer of Legal Affairs.

U.R. to R.D., No. 3523, dated the 3 4th May 1945

S.A.K.
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4 copies

100/24

Office of the R.L.A.

The proposed section 3A as revised by Secretary. R.D. vests P.W.D. and other authorised officers with very wide powers and makes them the judges as to what land in any locality is needed or likely to be needed for any public purpose. This, it seems, would be inconsistent with the general scheme of the Land Acquisition Act, 1894, for under section 4 of that Act it is the Provincial Government which is the sole determining authority as to what land is likely to be needed for any public purpose. If section 4 is to remain as it stands, it would be but proper that the power to determine whether land in any locality is likely to be needed for any public purpose should rest with the Provincial Government and not be delegated to the P.W.D. and other authorised officers under the proposed section 3A. Further, it will not be necessary under the new section 3A to publish an order of the Provincial Government by a notification in the Official Gazette every time land is likely to be needed for any public purpose, nor will it be necessary to issue a notification authorising officers to exercise the powers conferred by the section every time a land is likely to be needed for such purpose. It will suffice if a general notification authorising P.W.D. officers to exercise the said powers is issued once only.

Sd/-P.H.Moos
25-5-45

O.C. Remembrancer of Legal Affairs.

U.R. to R.D., No. 4040, dated the 26th May 1945.

S.A.K.

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4 copies

A Bill to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

of 1894.

WHEREAS it is necessary to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

Short title.

1. This Act may be called the Land Acquisition (Bombay Amendment) Act, 1945;

Insertion of new Part I-A in Act I of 1894 I of 1894.

2. After Part I, of the Land Acquisition Act, 1894, hereinafter called "the said Act," the following Part shall be inserted, namely:-

"Part I-A

Preliminary survey.

Preliminary survey of lands and powers of officers to carry out survey.

3A. For the purpose of enabling the Provincial Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the Provincial Government in the Public Works Department, or any other officer either generally or specially authorized by the Provincial Government in this behalf, and for his servants and workmen:-

(i) to enter upon and survey and

take levels of any land in such locality.

(ii) to mark such levels.

(iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose, and

(iv) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crops, fence or jungle;

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) least seven days' notice in writing of his intention to do so.

3B. The officer of the Provincial Government in the Public Works Department, and any other officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final."

Payment for
damage.

3. In section 45 of the said Act, for the word and figure "section 4" the words, figures and letter "section 3A or 4" shall be substituted.

Amendment of
section 45 of
Act I of 1894.

4. In section 46 of the said Act-

Amendment of
section 46 of
Act I of 1894.

(a) after the word "by" the word, figure and letter "section 3A" shall be inserted; and

(b) after the words "under section " the figure, letter and words "3A or section" shall be inserted.

Office of the H.L.A.

~~Memorandum~~

A revised draft as settled after consultation with Secretary Revenue Department and Secretary Reconstruction Department, is sent herewith.

Sd/-P.N.Moos
6-6-45

Remembrancer of Legal Affairs.

U.R. to R.C.D.No. 4315, dated the 6th June 1945.

S.A.K.
12-7
4 copies

Legal Department.
Bombay Castle, 23rd October 1945.

From

P.N.Moos Esquire, Bar-at-Law, I.C.S.,

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Land Acquisition Act,
1894.

Sir,

With reference to your Memorandum No. 201(123), dated the 9th August 1945, addressed to the Revenue Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the Land Acquisition Act, 1894, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935.

2. The subject-matter of the Bill falls under entries 9 and 37 in List II in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I am also forwarding herewith one spare copy of the Bill.

Your obedient servant,

Sd/-P.N.Moos

Secretary to the Government of Bombay.
Legal Department.

Through.

The Secretary to the Government of Bombay.
Revenue Department.

S.A.K.
12-7
4 copies

No. 201(123)
Office of the Governor's Secretary
Government House,
Ganeshkhind, 30th October 1945.

From

D.Symington, Esquire, CIE, ICS.
Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department.

Subject:- A Bill to amend the Land Acquisition
Act, 1894.

Sir,

With reference to your letter No. 7880, dated 23rd October 1945, on the above subject, I am directed to return & herewith the copy of the Bill to amend the Land Acquisition Act, 1894, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and

to state that under the provisions of the aforesaid ~~paragraph~~ paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient servant,

Sd/-

Secretary to the Governor of
Bombay.

S.A.K.
12-7
4 copies

A C T S.

Publication of the Land
Acquisition (Bombay Amendment)
Act, 1945.

GOVERNMENT OF BOMBAY.
Legal A Department.
Resolution No. 5220
Bombay Castle, 2nd November 1945.

Letter to the Secretary to the Governor, No. 7580, dated
the 23rd October 1945.

Letter from the Secretary to the Governor, No. 201(123),
dated the 30th October 1945.

"With reference to your letter No. 7580, dated 23rd
October 1945, on the above subject, I am directed to return
herewith the copy of the Bill to amend the Land Acquisition
Act, 1894, prepared by His Excellency the Governor under-
paragraph (2) of the Proclamation, dated the 4th November
1939, issued by him under section 93 of the Government of
India Act, 1935, and to state that under the provisions of
the aforesaid paragraph His Excellency the Governor is pleased
to declare that he assents to the Bill in the name of
His Majesty."

RESOLUTION: - The law should be published as Bombay Act
No. XX of 1945, in the Bombay Government Gazette dated the
3rd November 1945.

2. The Act should be translated into Marathi, Gujarathi,
Kannada and Hindustani (in Urdu and Devnagari scripts) and
the translations should be published in the Bombay Government
Gazette.

3. A copy of the Act should be forwarded to the
General Department.

By order of the Governor of Bombay.

sd/- N.H. DAVID

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay. (with a copy of the Act and with a request that 15 gazette copy copies of the Act may be forwarded to the Legal Department).

The Revenue Department.	)	with a
The Oriental Translator to Government.	)	copy of
The Secretary to the Bombay Legislative Council	)	the Act.
The Secretary to the Bombay Legislative Assembly.	)	

With five extra copies

S.A.K.
12-7
4 copies

GOVERNOR'S BILL No. ~~XX~~ OF 1945.

A Bill to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

I of 1894. WHEREAS it is necessary to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing ;

26 Geo. 5, Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Land Acquisition Short title. (Bombay Amendment) Act, 1945.

I of 1894. 2. After Part I of the Land Acquisition Act, 1894, hereinafter called "the said Act", the following Part shall be inserted, namely :—

Insertion of new Part I-A in Act I of 1894.

"PART I-A.

Preliminary Survey.

3A. For the purpose of enabling the Provincial Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the Provincial Government in the Public Works Department, or any other officer either generally or specially authorised by the Provincial Government in this behalf, and for his servants and workmen,—

Preliminary survey of lands and powers of officers to carry out survey.

(i) to enter upon and survey and take levels of any land in such locality,

(ii) to mark such levels,

(iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose, and

(iv) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

3B. The officer of the Provincial Government in the Public Works Department, and any other officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of

Payment for damage.

the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.'

Amendment
of section 45
of Act I of
1894.

3. In section 45 of the said Act, for the word and figure "section 4" the words, figures and letter "section 3A or 4" shall be substituted.

Amendment
of section 46
of Act I of
1894.

4. In section 46 of the said Act—

(a) after the word "by" the word, figure and letter "section 3A" shall be inserted; and

(b) after the words "under section"—the figure, letter and words "3A or section" shall be inserted.

69
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STATEMENT.

Under the provisions of the Land Acquisition Act, 1894, a survey of lands can only be undertaken after the publication of a notification under section 4 and it has been found that in many cases the lands originally notified are, after the survey authorised under sub-section (2) of section 4, found to be unsuitable for the purpose for which they were proposed to be acquired, thus necessitating a fresh notification in respect of other lands. This results in delay in land acquisition proceedings. It is essential, particularly in connection with post-war projects, to secure that land acquisition proceedings be completed as expeditiously as possible, and for this purpose it is necessary to authorise the preliminary survey of lands likely to be needed for any public purpose and to empower officers to carry out such survey. This Bill is intended to secure this object.

75
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Registered No. B-1



The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 3RD NOVEMBER 1945.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 29th October 1945 is hereby published for general information.

P. N. MOOS,

Secretary to the Government of Bombay,
Legal Department

BOMBAY ACT No. XIX OF 1945.

First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 3rd November 1945.)

An Act to amend the Bombay Industrial Disputes Act, 1938.

Bom. XXV
of 1938. WHEREAS it is expedient to amend the Bombay Industrial Disputes Act, 1938, for the purpose hereinafter appearing;

26 Geo. 5,
Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Bombay Industrial Short title. Disputes (Amendment) Act, 1945.

Amendment
of section 25
of Bom. XXV
of 1938.

2. In section 25 of the Bombay Industrial Disputes Act, 1938, after sub-section (3), the following new sub-section shall be inserted, namely :—

Bom. XXV
of 1938.

“(3A) A Labour Officer may, after giving reasonable notice, convene a meeting of the employees of an employer, for any of the purposes of this Act, on the premises where the employees are employed for work and may require the employer to affix a written announcement of the meeting at such conspicuous places in the premises as he may order. The announcement shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened:—

Provided that during the continuance of a lock-out which is not illegal, no such meeting on the premises of the employer continuing the lock-out shall be convened of any employees affected by the lock-out without the consent of the employer.”

STATEMENT.

There is no provision in the Bombay Industrial Disputes Act, 1938, under which it would be possible for the Labour Officer to hold for any of the purposes of the Act meetings in the mill compounds if the millowners object to permit the use of their premises for the meeting. While in general millowners have permitted such use, yet instances have arisen where their refusal has frustrated the objects of the Act. It is proposed therefore to amend the Act to empower the Labour Officer to convene a meeting in the mill compounds, and to require the employer to post announcements of such meetings at such places on the premises as he may order.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 30th October 1945 is hereby published for general information.

P. N. MOOS,

Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XX OF 1945.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 3rd November 1945.)

An Act to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

WHEREAS it is necessary to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing ;

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33

26 Geo. 5,
Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Land Acquisition Short title.
(Bombay Amendment) Act, 1945.

I-of 1894, 2. After Part I of the Land Acquisition Act, 1894, hereinafter called "the said Act", the following Part shall be inserted, namely:—

Insertion of
new Part I-A.
in Act I-of
1894.

"PART I-A.

Preliminary Survey:

3A. For the purpose of enabling the Provincial Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the Provincial Government in the Public Works Department, or any other officer either generally or specially authorised by the Provincial Government in this behalf, and for his servants and workmen,—

Preliminary
survey of
lands and,
powers of
officers to
carry out
survey.

(i) to enter upon and survey and take levels of any land in such locality,

(ii) to mark such levels,

(iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose, and

(iv) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

3B. The officer of the Provincial Government in the Public Works Department, and any other officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final."

Payment for
damage.

3. In section 45 of the said Act, for the word and figure "section 4" the words, figures and letter "section 3A or 4" shall be substituted.

Amendment
of section 45
of Act I of
1894.

Amendment
of section 46
of Act I of
1894.

4. In section 46 of the said Act—

(a) after the word “by” the word, figure and letter
“section 3A ” shall be inserted; and

(b) after the words “under section” the figure,
letter and words “3A or section” shall be inserted.

STATEMENT.

Under the provisions of the Land Acquisition Act, 1894, a survey of lands can only be undertaken after the publication of a notification under section 4 and it has been found that in many cases the lands originally notified are, after the survey authorised under sub-section (2) of section 4, found to be unsuitable for the purpose for which they were proposed to be acquired, thus necessitating a fresh notification in respect of other lands. This results in delay in land acquisition proceedings. It is essential, particularly in connection with post-war projects, to secure that land acquisition proceedings be completed as expeditiously as possible, and for this purpose it is necessary to authorise the preliminary survey of lands likely to be needed for any public purpose and to empower officers to carry out such survey. This Act is intended to secure this object.